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AUTHOR	Hook, Sidney
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ABSTRACT

A discussion of the academic mission and collective bargaining suggests that some form of collective bargaining seems historically inescapable. Yet collective bargaining must be tempered with rational collegiality so that the form of collective bargaining must be one which will least affect the achievement of academic mission. (Author/MJM)

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Baruch College • The City University of New York
17 Lexington Avenue, New York, N.Y. 10010

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THE ACADEMIC MISSION AND COLLECTIVE BARGAINING

By Sidney Hook

Emeritus Professor of Philosophy - New York University
Senior Research Fellow Hoover Institution, Stanford California

As a philosopher, I cannot claim any special competence, over and above my role as an educator, to discuss collective bargaining in American higher education, although my conception of philosophy makes it a highly appropriate theme for analysis. But I can claim to be continuing a tradition set by two of the most distinguished American philosophers of the 20th century who, despite their epistemological differences, actively cooperated in founding the American Association of University Professors. One was John Dewey, its first President; the other was Arthur O. Lovejoy, its first Executive Secretary. Their role and, until recently, that of the Association they founded in getting the principles of academic freedom and tenure publicly recognized can hardly be exaggerated. For when they began their labors, and for many years thereafter, the status of teachers in colleges and universities was little better than that of hired hands in white collars. Their conditions of work, indeed its very continuance often depended upon certain haphazard, traditional usages, and especially upon not giving idealogical offense to Board and administrators who were in effect accountable to no one. Thorstein Veblin's reference to "the higher learning" as the "hired learning" exaggerated only a little; there

were much coarser public characterizations of the timidity of college professors. To Dewey and Lovejoy and the AAUP, we largely owe the vindication of the rights of college teachers as citizens.

Nonetheless, there was a profound difference between John Dewey and Arthur Lovejoy symbolized by the fact that John Dewey proudly held membership card no. 1 in the American Federation of Teachers, although to the best of my knowledge, he was never a member of its College Teachers local. So convinced was Dewey of the benefits of union membership that on repeated occasions he maintained that the burden of explanation rested on individual teachers to justify their not being members. Lovejoy, on the other hand, was convinced that the proper organization of college and university teachers was not a trade union but a professional association. He developed some powerful arguments in behalf of the position that the nature, affiliations and practices of a professional association of teachers should be distinct and separate from that of a trade union of teachers, even when he reluctantly admitted the possibility of joint action between them for limited objectives.

Lovejoy's arguments were not only powerful but persuasive. Variations upon them are still current. They were canonic doctrine in the AAUP until October 1971 when its Council decided to pursue collective bargaining as "a major additional way of realizing its goals." Lovejoy's position was based upon a sharp contrast between industrial trade unions and professional associations as ideal types. He was also influenced undoubtedly by the fact that the

leadership of some College Teacher Union locals, during the years when the issue first surfaced, was in the hands of the Communist Party which subsequently led to their explusion from the parent body. But his explicit argument made no mention of it and was based on considerations which, as I have indicated, still seem plasuible to many in the academy today who although quite sympathetic to the general principles of collective bargaining and trade unionism in general feel that they are out of place in institutions of higher education, particularly in view of recent developments in the governance of colleges and universities. These developments have resulted in forms of shared power, regardless of the existence of legal forms, unprecedented in the days of Lovejoy and Dewey.

In view that trade unions and the processes of collective bargaining are not appropriate to institutions of higher education is buttressed by many considerations. They cluster, however, around two main points:

(1) Historically, trade unionism and coolective bargaining arose as the most effective means by which workers in the long run increased their wages and improved their conditions of work at the cost of their employers. This inverse relationship obtains between profits and wages even if both are increased. No matter how big the pie, it is analytically true that the larger the slice for one, the smaller it must be for the other. What is true for the factory is decidedly not true for the academy whether private or public. Despite

absurd claims by young activists in colleges and universities, the latter are not profit making institutions accumulating surpluses for private distribution at the expense of the students and faculties. This seems to be true only in the private sector of higher education in the Phillipines. Institutions of higher education elsewhere and especially in the United States are normally deficit-producing. To the extent that economic conflicts indirectly go on in which faculties as a whole are interested parties, they take place in the determination of legislative priorities. Increased disbursements of tax monies for health, welfare or defense may limit educational expansion. But all this is far removed from the adversary or power relationship recognized in the normal process of collective bargaining. To be sure there is another element we must recognize as a legitimate and growing concern of trade unions, and that is the dignity of the worker which is protected among other ways by placing curbs on the right to hire and fire by those who own the instruments of production or their dupties. To the extent that ownership of property gives power over persons who must have access to this property to live, the defense of the dignity of the worker, his freedom from arbitrary dismissal, historically meant a dimunition of the power of property owners. Here, too, we have a clear adversary relation

(2) There is a second, and more striking, difference between the industrial enterprise and the educational enterprise that transcends in significance all the features that workers and teachers have in common as wage-earners and job holders. This is what differentiates a job from a profession. The teacher together with his peers has a moral coresponsibility for the character and consequence of his vocational activity and implicit commitment not only to do it well but to improve it. That is to say he accepts and does not surrender responsibility to administrative boards and superiors for the transmission and advancement of learning and understanding and the practice and improvement of teaching. That is his calling in the same way as the cultivation of health is the calling of the physician and the operation of justice the calling of the lawyer and jurist. In other words, the teacher and scholar even when he puts a price upon his services, has a special function in the way a typical worker in a market economy has not.

The typical member of the typical trade union is not interested in the use, quality, or improvement of the typical product he manufactures. That is the responsibility of the employer and manager. His primary interest is in keeping his job and getting more and more for it. If he gets more by producing shoddy as a worker, it is a matter of indifference to him, although as a citizen and a consumer, he may have some qualms. It is not inconceivable that as a worker, he should sabotage the quality of a product that might put him out of work. In one of the Alex Guiness' movies, "The

Man in a White Suit," the textile workers are ready to lynch one of their coworkers who has invented a fabric that is dirt-and-wear proof, for it spells the end of their employment. And it is not likely that under present conditions, workers on the auto assembly lines would welcome the production of a car that was free of built-in planned obsolescence and guaranteed to last the life of the owner. It might mean their jobs. But an engineer, as a professional, would welcome it.

The difference here is between the principle of trade unionism and guild socialism and is recognized as such by Lovejoy. The guild has a distinctive function from which is derived the norms of proper performance and pride in their fulfillment and improvement. Every major demand of the teacher is related to, if not derived from,"the maintenance of professional standards and of the conditions without which the special function of the profession cannot, in the long run, be truly performed."*

Whatever else may be said about this distinction between a job, as worthy as it is, and a calling, it is undeniable that the remarkable transformation in the history of American higher education in the last sixty years, especially in the growth of academic freedom, the recognition of tenure, and increased economic rewards, has been achieved not by exercise of power, not by strikes or threats of strike or disruption of community life,but by appealing to the validity of professional standards of scholarship, research and teaching. Progress was made by offering the evidence that these standards require conditions of freedom, security and reward which, although far from being universal and satisfactory, still,

*Arthur Lovejoy "Professional Association or Trade Union?" Bulletin of the AAUP, Vol. 24, 1938, p. 413.

from the perspective of the past, seemed little short of Utopian. Faculties today have more actual power in virtue of the recognition of their professional authority than they have ever had before in American History, even if they do not always choose to exercise it or do so wisely.

It is always possible to point to institutions in which today faculties have less power than they should have or to cite incidents that violate some claims to academic freedom or to uncover cases of economic hardship. But to use these instances to contest the truth concerning the enormous professional advance in status, income and power by the American professoriate as a whole is intellectually contemptible - comparable to denying the remarkable progress of modern medicine because so many people are still far from being completely healthy.

I accept Lovejoy's distinction between the professional association and the industrial trade union. Nonetheless, I do not believe that it entails the recommendations he makes, if these are interpreted as principled opposition to collective bargaining by college and university faculties. First of all, there are trade unions and trade unions, and historical developments have a way of subverting the neat logical distinctions we make between ideal types. There are professional associations of physicians which in countries that have socialized medicine engage in practices of collective bargaining quite similar to those of trade unions. Further, there are trade unions of journalists and of government officials -- state, county and city -- who have professional status

and functions, who engage in collective bargaining with those authorized by law to negotiate with them, but do not consider themselves in an adversary relation to them comparable to what exists in industry. The same is true of pilots and officers of planes and ships. But most relevant for our argument is the existence of trade unions of teachers of public in elementary and secondary schools. It is significant that Lovejoy did not express opposition to them despite the fact that they had a special professional function that required the recognition and fulfillment of educational standards in whose formulation they cooperated. Actually trade unions of teachers have done a great deal to improve the conditions under which their special professional functions are fulfilled. They have agitated not only for better school buildings and classrooms, but for academic freedom and tenure, too.

If one can have no principled objection to trade unions of teachers in elementary and secondary schools, it seems to me that he must also accept them for community and junior colleges as well For in these days of universal access to tertiary education, community and junior colleges perform essentially the same teaching functions as the lower schools. And once we have done this, we have broken the taboo against trade union collective bargaining for higher education with respect to teaching or to those forms of teaching that are not associated with research, the advancement of learning, original discovery, new critical perspective, creative innovations that make up the life and adventure of mind.

It was these aspects of higher education that were of primary concern to Lovejoy as they are to so many scholars today who feel

they are threatened by the introduction of collective bargaining. It is this which constitutes the distinctive academic mission of the college and university, its chief glory and real calling. The economic aspect of the scholar's life is important and once he acquires family responsibilities he cannot live the life of genteel poverty, which Ernst Renan declared should be his lot, without imposing hardships and unjustices on his dependents, unknown when scholars were priestly celibates. But any person who chooses the life of scholarship whether creative or critical because of its economic rewards has made a foolish choice. A desire, sometimes conscious, more often not, for intellectual fame or ambitions, "that last infirmity of noble minds," probably exerts a greater influence than money but does not explain why it expresses itself as a call for scholarship. But whatever the motivations that account for the choice of the scholarly vocation, there is a social need for the professionally trained scholar, for pioneers on the frontiers of knowledge, for disinterested, independent and above all, free minds, prepared to follow and publish the truth as they see it, regardless of its consequences on vested material or emotional interest. Civilization is transmitted by teaching; but it originates and evolves by intellectual discovery, those small and large mutations in ideas, about which we know little except that they flourish best when society provides room and leisure for them. To a large extent in our century, the faculties, the climate and leisure have been provided by institutions of higher education.

In asking, then, what is the bearing of collective bargaining on the academic mission we are not assessing the question from a

selfish professional vantage point or pleading a narrow parochial cause. We are asking a question of profound concern to the whole community.

How shall we answer it? Before doing so, let us take a realistic look at the situation revealed by recent discussions in universities and by the illuminating statistical surveys by Lipset and others. They reveal that the strongest support for collective bargaining comes from community colleges and from the lower ranks in four-year colleges; the strongest opposition comes from professors in academically prestigious universities. Even the most committed partisans of collective bargaining admit that there is a widespread apprehension among those in senior academic rank that academic standards are threatened by the recognition of bargaining agents for the entire faculty. Nonetheless, "Nearly three-fifths of all academics in the 1969 Carnegie survey give general endorsement to the principle of collective bargaining" (Lipset).

At the same time, there is every likelihood that collective bargaining is the wave of the academic future. There are various grounds for the prediction, welcome it or not. First, the number of persons in the lower or junior ranks outnumber those in the senior ranks. Second, present financial stringencies and the halt in institutional expansion have made teachers tenure conscious, all the more so because the tenure system itself has come under attack from students, legislators, and some administrators. Third, in most elections so far, one or another outside organization has been selected as the collective bargaining agent. Even in the few cases where faculties have voted for no collective bargaining, it

is admitted that because of the periodicity of elections, the ample resources of those in favor of some kind of trade unionism in contrast to the limited resources of those opposed, any move towards academic retrenchment or any unpopular administrative decision is likely to cause the faculty to reverse itself. Fourth, some of the economic gains won by collective bargaining for teachers in lower echelon institutions have been so impressive that they are sure to carry great weight among members of all institutions. When news gets around that full professors at the two-year community colleges by automatic increases can earn $31,275, it may produce a bandwagon effect. Finally, scholars are not fighters,and on this issue not even activists or participants. In centers of academic research and scholarship, the proportion of abstentions, of those who do not even take the trouble to vote, is much higher than in centers mainly of teaching. At one institution in the former category, one-third of the faculty cast no vote. The enthusiasm and dedication all seem to be on one side.

I conclude from these and related considerations that intelligent choice today is not between acceptance or rejection of the principle of collective bargaining but between the different forms of collective bargaining. Since contracts are written, as distinct from most labor contracts, not for the entire industry but for each university or university system, we must ask: under what form of collective bargaining can the academic mission best be preserved and strengthened?

I am not an expert on collective bargaining and on the writing of contracts, but having spent more than fifty years in

the academy, most of them in a position of administrative authority, and seen a mediocre university achieve distinction in many fields and observed threats to that distinction, I submit reflections on my experience as relevant evidence on what nourishes and what subverts the academic mission.

First of all, collective bargaining must not make difficult the achievement of excellence in institutions in which the advancement of knowledge and understanding is central. Such excellence cannot be achieved without educational leadership and some degree of delegated power. The fact that the power is delegated makes it responsible, ultimately subject to control by the relevant educational constituency. But there must be some provision within th limits of control for the exercise of initiative, for decision which is not arbitrary but still discretionary after the discussion and pooled reflection that should normally precede action is over. This is particularly important in building up departments or in trying to develop eminence where it has been lacking. Because of an illegitimate transference of political categories to the realm of mind, the very words "elite" and "elitism", and expressions like "intellectual discrimination" have become suspect The very essence of the life of mind consists in intellectual discriminating. Democracy in an extended sense is an ethical concept, and involves an equality of respect and concern in relevant respect for all members of the academic community. It does not entail a leveling down or uniformity of expectation and result, or an equality of rewards--whether material or psychic. In my experience mediocrity has a tendency to resent, if not

conspire against, excellence. Academic rank should reflect excellence. No great departments, no great universities have been built where the lower intellectual ranks defined in terms of experience and objective scholarly achievement, have the same weight and authority in determining who should be invited into the higher ranks as the peers of the latter. Where everyone automatically goes to the top, provided only that he doesn't break a law, the whole nation of excellence and quality becomes a farce.

It is difficult to make this point without laying oneself open to distortion and caricature even in the absence of a will to misunderstand. With respect to the academic mission, although authority should be shared, it cannot be equal. Some provision should be made to permit educational leadership at some point, at least for a limited time, somewhat of the same degree of freedom that we give a conductor of an orchestra or a coach of a team. Ultimately, the justification for the inequality and discretionary power is the production of great music, the creator of a great team, the publication of a great book, the discovery of great ideas, and intellectual breakthroughs. It may be that with universal access to higher education this academic mission may have to be relegated to special institutes, where teaching is only incidental or does not exist, or to only a few elite universities. For many reasons this would be a pity, and before long, similar problems would arise there, too, concerning how the academic mission can best be furthered.

Recent developments make it necessary to safeguard the academic mission from some other tendencies. I refer to the

growing dangers of politicalization of university life not only in the manifest espousal of political positions on foreign policy or domestic issues unrelated to the academic mission but to the introduction of categories of evaluation irrelevant to scholarly promise or performance. Appointments and promotions should in no way be determined by vague and ambiguous classifications like "liberal" or "conservative," "left" or "right" but whether a person's thinking is profound or shallow, original or derivative, scholarly or unscholarly. Universities should be extremely chary in entering into negotiations with any organization that has a political commitment. In the event that it has been selected by a majority vote, its proposals should be carefully scanned to detect possible political bias. Further, where students or their representatives are brought in at any point they should have, on academic matters, voice but no vote, powers of consultation and advice, not of decision. In general, reliance upon decisions of individuals outside the academy on purely academic matters should as far as possible be avoided. And against those who are under the belief that the ultimate and staunchest bastion of defence of academic freedom are the courts, I would register an emphatic protest. Most jurists who have discussed the educational issues seem unfamiliar with the logic and ethics of the academic mission. At crucial points they seem unable to differentiate between the first amendment rights of teachers as citizens, and the rights and obligations of teachers and scholars as members of an academic community subject to standards of professional ethics. A citizen may freely plagiarize from what is in the public domain

or advise students to cheat or disrupt classes of his colleagues with complete impunity under the protection of the Bill of Rights. As a member of a faculty, however, such actions would constitute prima facie evidence of a conduct unbecoming a scholar and teacher and subject to punishment, where due process is observed and guilt established, for violation of professional ethics.

This brings me to the most crucial and dangerous challenge to the academic mission in educational life today. This is the attempt to use the mechanisms of due process which legitimately protect scholars and teachers from abuses of academic freedom as a means of establishing permanent tenure where issues of academic freedom are not involved after the probabtionary period has lasped. I speak as one committed to the principle of tenure once it has been won, and quite aware of its difficulties and problems on the ground that the support it gives to academic freedom, is worth its high cost. Where this principle is recognized, especially when institutions of higher education cannot rely on continuous expansion, the academic mission requires that it be possible to recruit the best and most promising scholars and teachers available to upgrade its quality and standards in the continuous pursuit of excellence. This is extremely difficult, if not impossible, if the distinction between tenured and untenured faculty is undermined. No reasonable case can be made for the claim that the acquisition of a teaching or scholarly post carries with it the presumption of instant tenure. Nonetheless, proposals are being made, partly motivated by the desire of conflicting groups for an enlarged constituency among faculties, that in effect will

give instant tenure to those appointed to teach by imposing the same or similar conditions for dropping them as hold in the case of colleagues who have won permanent tenure.

This will be the natural consequence of the demands made by some proposed collective bargaining contracts which specify that when a teacher or scholar is hired he or she receive a written statement of the conditions which will govern the grant or withholding of permanent tenure upon the lapse of his or her probationary period. Presumably, if the conditions are satisfactorily fulfilled, there will be normal expectation of tenure; and if there are grounds for the judgment that satisfactory service has not been given these will be explicitly indicated. In addition, this is coupled with the demand that the candidate have complete access to his departmental or personnel file so that he can be informed of the materials and data on which the judgment is reached and the right to invoke the grievance procedure with a guarantee of full academic due process if he wishes to challenge the justice of the decision.

These seemingly innocent requests may spelldisaster to the academic mission. Tenure, as a principle which protects full-time faculty members after a probationary period, from dismissal without adequate cause, must be defended but it cannot successfully be defended unless it is given after careful assessment of academic quality. For it not only involves mortgaging the resources of an institution to the tune of a half million dollars or more for each grant of tenure on the average, but subjects <u>in</u> advance for thirty years or more a large number of students to the pedagogical mercies

of those upon whom tenure is bestowed as well as limiting the future freedom of action of the university to renew and expand its faculty. From the point of view of the academic mission, merely satisfactory service may not be good enough. Failure to win promotion is not equivalent to dismissal for incompetence. At the time the probationary period is up, some other young scholar may be available who is much better, who is a specialist capable of filling a gaping curricular need, or who has brilliant pedagogical gifts from which students can profit enormously. Popularity with students is neither a necessary nor sufficient condition of scholarly promise, something that can most reasonably be determined by scholars already established in the field. It will never be honestly determined if the contract specified that those who have failed to win tenure have the right of access to confidential personnel files that contain the judgments of scholarly evaluation on the basis of which the decision to grant or not to grant tenure is made.

For who will write frank and honest letters about anyone knowing that the subject whose career may be blasted in consequence will be privy to them? As it is, in academic matters we tend to be too kind rather than too truthful. It is possible to love someone, or be friendly to him, who happens to know unflattering truths about us. But it is extremely difficult to love him or be friendly if he not merely knows but publicly <u>proclaims</u> these truths. It is safe to predict that honest evaluation will end where files are open.

There are other reasons why the freedom of the academic community to renew and improve itself should not be hedged in by provisions that within a few years may result in a faculty that

is completely tenured. All contracts that would have this effect should be rejected. For if this were the upshot of any collective bargaining agreement how would it be possible, without additional resources, to add a new department? Or if some institution were to innovate by recruiting teachers qualified to give instruction in several disciplines, how could this be achieved? All partisans of collective bargaining insist that they would never dream of attempting to influence the content or direction of curricular studies. And they actually may not intend to do so. But some provisions, if enforced, may in fact have this effect.

Finally, a word about grievance procedures at any level. Anyone familiar with the few cases in which attempts have been made by full academic due process to enforce standards of professional ethics knows what a tremendous burden of time, energy and loss of teaching services they entail. In some places it has even involved risks to the personal safety of those members of the faculty who serve as jurors. It usually embroils not only faculties but arouses students to attempt to impose their point of view while cases are under adjudication. Without sacrificing any principles of equity, procedures should be simplified. Where issues of academic freedom are not centrally involved but of educational policy institutions should insist that whatever the appeal procedure, the last word should be spoken by the faculty as a whole or its representatives. Where agreements are made to submit any educational issue to binding arbitration, recourse to arbitrators whose experience has been limited to settling industrial disputes should be avoided, and only distinguished educators without party pris should be brought in, who are well informed about the special educational needs of the institution.

It is time to bring these considerations to a close lest we get lost in a sea of detail. If one takes the long view, it is undeniable that institutions of higher education have more independence and autonomy with respect to their mission- the advancement of knowledge and understanding--than at any time in the past. By and large faculties enjoy more security and better conditions. And above all, they enjoy a greater shared authority. The crucial question is whether they can retain the gains won, extend them to places and areas where they are still absent, and still fulfill their academic mission by reliance upon the collegial processes of the past or by resort to collective bargaining. My answer to the question cannot be unequivocal. Nor is it equivocal. Under ideal conditions, I would place my faith on the processes of rational collegiality. But conditions are not ideal. Some form of collective bargaining seems historically inescapable even if not ideally desirable. That is why I believe we must opt for that form of collective bargaining that will least affect the achievement of our academic mission.